

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

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| WILLIAM WHITLEY, et al., |) | CASE NO. 1:05 CV 2673 |
| |) | |
| Plaintiffs, |) | JUDGE DONALD C. NUGENT |
| |) | |
| v. |) | <u>MEMORANDUM OF OPINION</u> |
| |) | <u>AND ORDER</u> |
| JULIUS WILSON, et al., |) | |
| |) | |
| Defendants. |) | |

On November 15, 2005, pro se plaintiffs William Whitley, Melvin Mayo and Eric Allen filed this 42 U.S.C. § 1983 action against Julius Wilson, the State of Ohio, Jim Petro and Vern Riffe Center. The complaint alleges Whitley, an inmate at the Richland Correctional Institution, was convicted for escaping from a halfway house, and asserts that his current incarceration violates his rights under the Fifth, Eighth and Fourteenth Amendments. There are no particular allegations concerning the other two plaintiffs. For the reasons stated below, this action is dismissed pursuant to 28 U.S.C. § 1915A.


A district court is expressly authorized to dismiss any civil action filed by a prisoner seeking relief from a governmental employee or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C.

§1915A; Siller v. Dean, No. 99-5323, 2000 WL 145167 , at *2 (6th Cir. Feb. 1, 2000).

Plaintiffs assert that their incarceration violates their constitutional rights. When a prisoner challenges "the very fact or duration of his physical imprisonment, ... his sole federal remedy is a writ of habeas corpus." Preiser v. Rodriguez, 411 U.S. 475 (1973).

Accordingly, this action is dismissed without prejudice. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.



DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE